

May 30, 2002

ENERGY & ENVIRONMENT COMMITTEE  
REPORT NO. 8

ALL MEMBERS PRESENT EXCEPT LEGISLATOR DUSZA. CHAIRMAN DeBENEDETTI  
PRESENT AS EX-OFFICIO MEMBER.

1. RESOLVED, that the following items are hereby received and filed.

- |    | Item  | Page | -2002 | (Comm. 11E-12) |
|----|---|------|-------|----------------|
| a. | <b>COUNTY EXECUTIVE:</b> EC Southtowns Sewage Treatment Agency – A/E Agreement<br>Dated 4/20/00 – Engineering Change Order No. 3, R & D Engineering.<br>(5-0) Legislator Dusza absent. Chairman DeBenedetti present as Ex-Officio Member. |      |       |                |
| b. | Item  | Page | -2002 | (Comm. 11E-13) |
|    | <b>COUNTY EXECUTIVE:</b> ECSD No. 2 – Construction Inspection Service Agreement –<br>Work Order DG-4, Comm 8E-36 (2001).<br>(5-0) Legislator Dusza absent. Chairman DeBenedetti present as Ex-Officio Member.                             |      |       |                |

**AS AMENDED**

- |    | Item                    | Page | -2001 | (Comm. 1E-27) |
|----|-------------------------|------|-------|---------------|
| 2. | <b>COUNTY EXECUTIVE</b> |      |       |               |

(A)

RESOLUTION NO. \_\_\_\_

RESOLUTION DATED \_\_\_\_\_, 2002

A RESOLUTION APPROVING AN INCREASE AND IMPROVEMENT OF THE FACILITIES  
OF ERIE COUNTY SEWER DISTRICT NO. 2 IN THE COUNTY OF ERIE, NEW YORK.

(Introduced) May 30, 2002.

(Adopted) \_\_\_\_\_, 2002.

WHEREAS, pursuant to proceedings previously had and taken in accordance with the  
provisions of Article 5-A of the County Law, including approving orders of the State Comptroller,  
County Sewer District No. 2 of the County of Erie, New York, has previously been established and  
its facilities have been increased and improved; and

WHEREAS, The County Legislature of the County of Erie, New York, has previously duly  
caused to be prepared a report and estimate of cost, by the County Engineers (Erie County  
Department of Environment and Planning) relating to an increase and improvement of the facilities  
of said District No. 2 which report and estimate of cost have been approved by the Board of  
Managers of said District on February 14, 2002 and filed with the County Legislature pursuant to  
Section 268 of the County Law; and

WHEREAS, said report and estimate of cost describe an increase and improvement of the  
facilities of Erie County Sewer District No. 2 in said County, consisting of the reconstruction and/or  
replacement of approximately 27,000 feet of existing sewers, manholes and appurtenances

throughout the District, all as more fully described in the report and estimate of cost hereinbefore referred to; and

WHEREAS, the maximum estimated cost of said increase and improvement of the facilities of said Sewer District is \$3,000,000; and

WHEREAS, said County Legislature duly adopted Resolution 163 on April 11, 2002, calling a meeting of the County Legislature for the purpose of holding a public hearing on the aforesaid increase and improvement of facilities in accordance with said report and estimate of cost; and

WHEREAS, such Resolution authorized and directed the Clerk of said County Legislature to publish the notice of public hearing and file a certified copy of such notice with the office of the State Comptroller; and

WHEREAS, said public hearing was duly held at 25 Delaware Avenue, in Buffalo, New York, in said County, on May 9, 2002, at 1:30 o'clock P.M., Prevailing Time; and

WHEREAS, notice of said public hearing was duly published and filed in the manner provided by law and proof thereof was submitted to said County Legislature; and

WHEREAS, the said proposed increase and improvement has been determined to be an "Type II" pursuant to the Regulations of the New York State Department of Environmental Conservation promulgated pursuant to the State Environmental Quality Review Act, the implementation of which as proposed will not result in any significant environmental impacts;

WHEREAS, pursuant to applicable provisions of Section 268 of the County Law, as amended by Chapter 397 of the Laws of 1995, the consent of the State Comptroller is not required prior to the expenditure of funds for said additional increase and improvement because the cost thereof to the Typical Property (as defined in the County Law) as follows: \$8.80 for the Town of Hamburg, \$8.10 for the Town of Eden, \$4.50 for the Village of North Collins and \$7.20 for the Town of Evans; such costs not being above the Average Estimated Cost of \$17.00 to the Typical Properties for similar types of expenditures, as computed by the State Comptroller;

NOW, THEREFORE, BE IT RESOLVED BY THE COUNTY LEGISLATURE OF THE COUNTY OF ERIE, NEW YORK, AS FOLLOWS:

Section 1. Upon the evidence given at the aforesaid public hearing, it is hereby found and determined that it is in the public interest to proceed with the expenditure for the increase and improvement of the facilities of Erie County Sewer District No. 2, all as more fully described in the preambles hereof, and such increase and improvement of facilities is hereby authorized at a maximum estimated cost of \$3,000,000.

Section 2. The \$3,000,000 estimated cost of such expenditure is to be assessed against a benefited area which consists of the entire area of said Sewer District No. 2.

Section 3. This resolution shall take effect immediately.

(5-0) Legislator Dusza absent. Chairman DeBenedetti present as Ex-Officio Member.

(B)

RESOLUTION NO. \_\_\_\_\_

RESOLUTION DATED \_\_\_\_\_, 2002

A RESOLUTION APPROVING AN INCREASE AND IMPROVEMENT OF THE FACILITIES OF ERIE COUNTY SEWER DISTRICT NO. 3 IN THE COUNTY OF ERIE, NEW YORK.

(Introduced) May 30, 2002.

(Adopted) \_\_\_\_\_, 2002.

WHEREAS, pursuant to proceedings heretofore had and taken in accordance with the provisions of Article 5-A of the County Law, including approving orders of the State Comptroller, County Sewer District No. 3 of the County of Erie, New York, has heretofore been established and created in the 1960s (the "Original District"), and

WHEREAS, in the 1980s an extension to the Original District known as the Armor-McKinley Extension (the "Armor-McKinley Extension") was formed, along with other extensions to the Original District, (the Original District and the Armor-McKinley Extension hereinafter collectively referred to as the "District"), and

WHEREAS, The County Legislature of the County of Erie, New York, has previously duly caused to be prepared a report and estimate of cost, by the County Engineers (Erie County Department of Environment and Planning) relating to an increase and improvement of the facilities of said District No. 3 which report and estimate of cost have been approved by the Board of Managers of said District on February 27, 2002 and filed with the County Legislature pursuant to Section 268 of the County Law; and

WHEREAS, said report and estimate of cost describe an increase and improvement of the facilities of Erie County Sewer District No. 3 in said County, consisting of the elimination of the Southwestern and Greenmeadow Pumping Stations and the construction of new sewer lines to replace said pumping stations, all as more fully described in the report and estimate of cost hereinbefore referred to; and

WHEREAS, the maximum estimated cost of said increase and improvement of the facilities of said Sewer District is \$1,500,000; and

WHEREAS, said County Legislature duly adopted Resolution 183 on April 25, 2002, calling a meeting of the County Legislature for the purpose of holding a public hearing on the aforesaid increase and improvement of facilities in accordance with said report and estimate of cost; and

WHEREAS, such Resolution authorized and directed the Clerk of said County Legislature to publish the notice of public hearing and file a certified copy of such notice with the office of the State Comptroller; and

WHEREAS, said public hearing was duly held at 25 Delaware Avenue in Buffalo, New York, in said County, on May 23, 2002, at 1:30 o'clock P. M., Prevailing Time; and

WHEREAS, notice of said public hearing was duly published and filed in the manner provided by law and proof thereof was submitted to said County Legislature; and

WHEREAS, the said proposed increase and improvement has been determined to be an "Type I" pursuant to the Regulations of the New York State Department of Environmental Conservation promulgated pursuant to the State Environmental Quality Review Act, the implementation of which as proposed will not result in any significant environmental impacts;

WHEREAS, pursuant to applicable provisions of Section 268 of the County Law, as amended by Chapter 397 of the Laws of 1995, the consent of the State Comptroller is not required prior to the expenditure of funds for said additional increase and improvement because the cost thereof to the Typical Property (as defined in the County Law) is \$5.07; such cost not being above the Average Estimated Cost of \$17.00 to the Typical Properties for similar types of expenditures, as computed by the State Comptroller;

NOW, THEREFORE, BE IT RESOLVED BY THE COUNTY LEGISLATURE OF THE COUNTY OF ERIE, NEW YORK, AS FOLLOWS:

Section 1. Upon the evidence given at the aforesaid public hearing, it is hereby found and determined that it is in the public interest to proceed with the expenditure for the increase and improvement of the facilities of Erie County Sewer District No. 3, all as more fully described in the preambles hereof, and such increase and improvement of facilities is hereby authorized at a maximum estimated cost of \$1,500,000.

Section 2. The \$1,500,000 estimated cost of such expenditure is to be assessed against a benefited area which consists of the entire area of the District, as defined herein, exclusive of any extensions other than the Armor-McKinley Extension.

Section 3. This resolution shall take effect immediately.  
(5-0) Legislator Dusza absent. Chairman DeBenedetti present as Ex-Officio Member.

**AS AMENDED**  
(Comm. 21E-23)

3. Item Page -2001

**COUNTY EXECUTIVE**

WHEREAS, the Erie County Department of Environment and Planning has received the following low bid for West Pleasant Pumping station Elimination Project, Contract No. 52ED, on May 22, 2002,

<u>Contract No.</u>	<u>Low Bidder</u>	<u>Amount Bid</u>
Contract No. 52ED	C.M.H. Company 2067 Old Union Road Cheektowaga, NY 14227	\$392,861.00

and

WHEREAS, the aforementioned bidder has been recognized as successfully performing similar work in Erie County.

NOW, THEREFORE, BE IT

RESOLVED, that the West Pleasant Pumping station Elimination Project, Contract No. 52ED, be awarded to the low bidder as follows:

<u>Contract No.</u>	<u>Low Bidder</u>	<u>Amount Bid</u>
Contract No. 52ED	C.M.H. Company 2067 Old Union Road Cheektowaga, NY 14227	\$392,861.00

and be it further

RESOLVED, that the County Executive be, and hereby is, authorized to execute the Contract with the aforementioned low bidder subject to approval as to form by the County Attorney and certification of availability of funds from the Project Fund Balance or an authorized advance from the General Fund by the Comptroller's Office; and be it further

RESOLVED, that the Comptroller is authorized and directed to allocate \$392,861.00 from Sewer Capital, Erie County Sewer District No. 2, Fund No. 430, Project No. 913, and be it further

RESOLVED, that the Clerk of the Legislature be directed to send two (2) certified copies of this resolution to Charles J. Alessi, P.E., Department of Environment and Planning, and one certified copy to James Liddle, Erie County Comptroller's Office and to Gregory Dudek, Assistant County Attorney.

(5-0) Legislator Dusza absent. Chairman DeBenedetti present as Ex-Officio Member.

4. Item Page -2002 (Intro. 9-1)

**PEOPLES**

WHEREAS, A 1997-98 Brownfield investigation by the City of Buffalo concerning the vacant lot at 858 East Ferry Street determined that the site has a layer of contaminated white ash, which is a hazardous waste byproduct due to high concentrations of lead buried just beneath the soil surface, and

WHEREAS, Environmental exposure to lead has long been recognized as a public health hazard particularly among children, and the vulnerability of children age 1 to 5 years to soil lead is enhanced because of their hand to mouth activities, and

WHEREAS, Because it does not breakdown, the legacy of lead contamination in urban communities can have severe health consequences; inner-cities dwellers, especially the poorest and youngest, face the highest risks because of multiple exposures from lead paint, soil, and air, and

WHEREAS, In 1999, the New York State Department of Environmental Conservation issued a Record of Decision which listed remediation steps for the site that should consist of the removal of the contaminated ash to an approved landfill, covering the site with clean soil, and placing deed restrictions on the property to allow for only commercial or industrial development, and

WHEREAS, Adjacent to the 858 East Ferry Street property is a used car business which lies on the site of the former Heymann lead smelting plant that NYSDEC investigators believed also contained contaminated soil, and

WHEREAS, It was further determined that the former smelting plant was evidently built over the top of a pre-existing deposit of ash that the DEC speculates was left from a municipal incinerator that had occupied the auto business site prior to the smelting plant, and

WHEREAS, An investigation by the DEC in August 2001 found that the volume of hazardous white ash on parts of the auto business property, and also at other nearby sites that were not included in the original analysis in 1997-98, were significantly larger than expected, and

WHEREAS, The DEC had listed the cost to cleanup 858 East Ferry Street in their 1999 Record of Decision at about \$1.3 million, which was an estimated cost prior to the determination that much larger amounts of contamination were present in the area surrounding 858 East Ferry Street, and

WHEREAS, Unfortunately, the DEC has said that a detailed engineering analysis of remedial action to address contamination at 858 East Ferry Street, and also at the other off-site areas, will not be possible until such time as State Superfund resources become available, and

WHEREAS, Economic development and job creation remain as perhaps the single most important issues facing Erie County government, and the redevelopment of former industrial sites in Western New York remains a high priority for Erie County, and

WHEREAS, Erie County has budgeted \$1 million per year in capital budget funding for the next 6 fiscal years for urban brownfield redevelopment, and this site is an excellent example of an area on need of redevelopment, and

WHEREAS, It is important that officials of the county administration appear at a future meeting of the Legislature's Energy & Environment Committee to discuss the specifics of this property and to offer its thoughts and analysis of a redevelopment strategy for this site,

NOW, THEREFORE, BE IT

RESOLVED, That the Erie County Legislature does hereby recognize that remediation at 858 East Ferry Street and the surrounding area, to protect the health of nearby residents as indicated

by the New York State Department of Environmental Conservation, is clearly warranted, and be it further

RESOLVED, That this legislature encourages swift remediation of the contaminated area, and be it further

RESOLVED, That the Erie County Legislature does hereby invite to a future meeting of the Legislature's Energy & Environment Committee officials of the Erie County Department of Environment & Planning for their analysis, thoughts and ideas on how best to proceed toward the goal of cleaning the site of contamination and making the property ready for redevelopment, and be it further

RESOLVED, That certified copies of this resolution be forwarded to the County Executive and the Commissioner of the Department of Environment & Planning.

FISCAL IMPACT: Positive for the health of residents and economic development of East Ferry Street in Buffalo.

(3-0) Legislator Dusza absent. Legislator Ranzenhofer absent for vote.

5. Item Page -2002 (Comm. 11E-14)

**COUNTY EXECUTIVE**

WHEREAS, the United States Surgeon General has identified radon gas to be the second leading cause of lung cancer in the United States; and

WHEREAS, the U.S. Environmental Protection Agency (EPA) has identified Erie County as high risk for radon potential; and

WHEREAS, Erie County has successfully established and operated a Radon/Indoor Air Quality Program for several years and has acquired valuable experience and expertise; and

WHEREAS, the County Executive received authorization through a resolution (Comm. 14E-40) passed on July 6, 2000, to execute contracts for Erie County Department of Environment and Planning (DEP) to provide residents with radon risk reduction and awareness associated with the NYS Department of Health SIRG 10 Grant Program; and

WHEREAS, the County Executive received authorization through a resolution (Comm. 14E-41) passed on July 5, 2001, to accept \$26,000 in grant funding from the National Environmental Health Association to develop and implement a project to perform evaluation testing for radon of newly-built homes constructed with sub-slab passive ventilation systems; and

WHEREAS, the County Executive received authorization through a resolution (Comm. 20E-31) passed on November 8, 2001, to transfer the sum of \$8,920 from Interfund – Environment and Planning (Account 880-6200) to Interdepartmental – Environment and Planning Grants (Account 882-6209) within the budget of the Federal Department of Housing and Urban Development (HUD) Healthy Homes Initiative Grant; and

WHEREAS, the grant budget for the SIRG 10 Program (SFG #563) was revised to include the grant funding from NEHA and HUD.

NOW, THEREFORE BE IT

RESOLVED, that the Erie County Executive is authorized to accept \$2,500 in grant funding from the National Association of Counties (NACo) for the creation of a radon information database, and be it further

RESOLVED, that the grant budget for the SIRG 10 Program (SFG #563) be revised to include the recently appropriated funds for the Radon Database grant as follows:

<u>Act</u>	<u>Description</u>	<u>Current Budget</u>	<u>Revisions</u>	<u>Revised Budget</u>
<u>REVENUES:</u>				
593	State Aid	\$48,500		\$48,500
640-0300	NEHA	26,000		26,000
640-0400	NACo	<u>0</u>	<u>\$2,500</u>	<u>2,500</u>
TOTAL		\$74,500	\$2,500	\$77,000

EXPENDITURES:

800	Salaries	\$55,057	0	\$55,057
805	Fringe Benefits	15,463	0	15,463
825	Out of Area Travel	1,000	0	1,000
826	Other Expenses	1,500	0	1,500
830	Contractual Services	10,000	\$1,000	11,000
883-2709	Interdepartmental			
	Billings-Health Grants	(8,920)	0	(8,920)
933	Equipment	<u>400</u>	<u>1,500</u>	<u>1,900</u>
TOTAL		\$74,500	2,500	\$77,000

and be it further

RESOLVED, that certified copies of this resolution be sent to the Director of Budget, Management and Finance; Laurence K. Rubin, Commissioner of Environment and Planning; Michael Raab, Deputy Commissioner of Environment and Planning; the County Comptroller; and the County Attorney.

(5-0) Legislator Dusza absent. Chairman DeBenedetti present as Ex-Officio Member.

**JOHN W. GREENAN**  
**CHAIRMAN**